

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Complaint by Allan Schufman Regarding the Electric Billing Practices and Charges of Maplewood Mall to its Tenants

ISSUE DATE: May 9, 1988

DOCKET NO. E-002/C-87-838

ORDER REJECTING COMPLAINT AND
ESTABLISHING ADVISORY GROUP

PROCEDURAL HISTORY

On December 4, 1987, Mr. Allan Schufman contacted the Consumer Affairs Office of the Minnesota Public Utilities Commission (the Commission) to complain about the electric billing practices and charges of the Maplewood Mall (Mall). Mr. Schufman is a partner in the Karmelkorn Shoppe at the Mall and he complained that his business was being over-charged for its electric service.

Northern States Power Company (NSP) provides electricity to the Mall through one master-meter. Mr. Schufman's lease explains the Mall's electric billing practices. The owners of the Mall allocate their tenants' electric charges based on an engineering study. If the tenant objects to the results of the engineering study, he can request that another study be conducted by another independent engineering firm.

In response to earlier complaints by tenants, the Mall had the original engineering firm conduct a second study which resulted in lower charges to Mr. Schufman. However, Mr. Schufman would like a study conducted by a different engineering firm as specified in the terms of his lease.

Mr. Schufman stated that his excessive electricity charges resulted from either being apportioned too great a share of Maplewood Mall's master-metered electric services or that the Mall is charging its tenants more for electric service than NSP charges the Mall. He sought a rate reduction or a new method for allocating his charges.

In a Report of Investigation and Recommendation (Report) dated March 22, 1988, the Minnesota Department of Public Service (DPS or the Department) recommended that the Commission deny the request of Mr. Schufman and convene an advisory group to examine problems with master-metered electricity and to recommend courses of action to the Commission.

FINDINGS AND CONCLUSIONS

The Commission must determine whether it has the authority to grant the relief requested by Mr. Schufman.

Tenants of a master-metered building receive either submetered service or service which is not metered. Minn. Stat. Section 216B.02, subd. 6a (1986) defines submetering as "measuring, by a building's owner, through mechanical or electronic devices, the use of electricity by occupants in multiple-unit residential or commercial buildings to fairly apportion the entire electrical costs for the building among its occupants".

The electric service provided to Mr. Schufman's business through Maplewood Mall's master-meter is not sub-metered. In its tariff, NSP defines this type of service as redistribution: "the provision of unmetered electrical supply by a customer to customer's tenants or other occupant, or to any person who qualifies for unmetered service".

Minnesota Statutes and Minnesota Rules do not address the redistribution of electricity and do not authorize the Commission to regulate it. Further, Minn. Stat. Section 216B.02, subd. 4 (1986) states: "No person shall be deemed to be a public utility if it furnishes its services only to tenants or cooperative or condominium owners in buildings owned, leased or operated by such person."

It would appear that the Commission's authority to regulate the provision of electric service by landlords to tenants is very limited. The Commission will not undertake such regulation in a case like this, where the lease is between relatively equal bargaining partners and contains a detailed mechanism for resolving the very dispute the tenant seeks to bring before the Commission. The issue of whether the Commission could intervene in a dispute involving clear exploitation in the provision of utility services is not before the Commission and will not be addressed.

In its Report, the Department also stated that it has received a number of inquiries from landlords and sellers of sub-metering equipment regarding the resale of electric service. The Commission is concerned that tenants of master-metered buildings may not be adequately protected by existing statutes and rules. It appears that landlords may charge tenants whatever rate they wish for their master-metered service.

The Commission will order the Department to convene an advisory group to investigate the issues raised by the resale of master-metered electric services and to consider and make recommendations on the need for legislation and rules to address them. The group should be made up of representatives from utilities, landlord and tenant associations, and Commission and DPS staffs. The Department will be required to submit a report on the findings and recommendations of the advisory group to the Commission and serve it upon the Residential Utilities Division of the Office of the Attorney General within 60 days of the issue date of this Order.

ORDER

1. The Complaint of Mr. Allan Schufman is hereby denied.
2. The Department of Public Service shall convene an advisory group on the resale of master-metered electricity and submit a report on its findings as described above.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)